

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

AMERICAN CABLE ASSOCIATION,
CTIA – THE WIRELESS ASSOCIATION,
NCTA – THE INTERNET & TELEVISION
ASSOCIATION, NEW ENGLAND CABLE
& TELECOMMUNICATIONS
ASSOCIATION, and USTELECOM – THE
BROADBAND ASSOCIATION, on behalf of
their members,

Plaintiffs,

v.

PHILIP B. SCOTT, in his official capacity as
the Governor of Vermont; SUSANNE R.
YOUNG, in her official capacity as the
Secretary of Administration; JOHN J. QUINN
III, in his official capacity as the Secretary and
Chief Information Officer of the Vermont
Agency of Digital Services; and JUNE E.
TIERNEY, in her official capacity as the
Commissioner of the Vermont Department of
Public Service

Defendants.

Case No. 2:18-cv-00167-CR

STIPULATION REGARDING TEMPORARY STAY OF LITIGATION

Plaintiffs the American Cable Association (now known as ACA Connects – America’s Communications Association),¹ CTIA – The Wireless Association, NCTA – The Internet & Television Association, New England Cable & Telecommunications Association, and USTelecom – The Broadband Association (collectively, “Plaintiffs”), and Defendants Philip B.

¹ On March 20, 2019, after this case was initiated, plaintiff American Cable Association changed its name to ACA Connects – America’s Communications Association.

Scott, Susanne R. Young, John J. Quinn III, and June E. Tierney in their official capacities (“Defendants,” and collectively with Plaintiffs, the “Parties”), by and through their respective counsel, hereby stipulate and agree as follows:

WHEREAS, based upon a stipulation filed by the parties, the Court entered an Order regarding Temporary Stay of Litigation and Injunction Barring Enforcement of Executive Order No. 2-18 and Act 169 that by its terms was to continue until the Ninth Circuit resolved the pending appeal in in *ACA Connects, et al. v. Becerra*, No. 21-15430 (9th Cir.) or April 15, 2022, whichever occurs first.

WHEREAS, the Ninth Circuit appeal was from a District Court ruling declining to enjoin net neutrality requirements imposed by California.

WHEREAS, the Ninth Circuit affirmed the District Court ruling on January 28, 2022, *ACA Connects v. Bonta*, 24 F.4th 1233 (9th Cir. 2022) and the Plaintiffs filed a petition for rehearing en banc, which is still pending.

WHEREAS, while the California litigation was ongoing, the United States District Court for the Eastern District of New York enjoined enforcement of the New York Affordable Broadband Act and that ruling was appealed to the Second Circuit.

WHEREAS, *New York State Telecomm. Ass’n v. James*, No. 21–1975 (2d Cir.) is fully briefed, but has not yet been resolved by the Second Circuit, and the scope and conduct of this action could be significantly shaped by the Second Circuit’s resolution of that appeal.

WHEREAS, the Parties wish to avoid a waste of judicial and party resources and believe this action should be stayed until the Second Circuit has issued a ruling in the *James* appeal.

WHEREAS, this Court has authority under *Landis v. North American Co.*, 299 U.S. 248 (1936), to enter a stay of proceedings as part of its power to control its own docket and is empowered to enter a stay of proceedings based on the circumstances here.

NOW THEREFORE, in consideration of the foregoing, the Parties further stipulate and agree as follows:

1. Further proceedings in this action shall be stayed until the Second Circuit has resolved the pending appeal in *New York State Telecomm. Ass'n v. James*, No. 21–1975 (2d Cir.).
2. The injunction entered by the Court on December 17, 2021, will expire on April 15, 2022.
3. Plaintiffs shall not seek attorneys' fees based on time spent litigating this action prior to the dissolution of the stay in accordance with this stipulation.
4. This stipulation shall not be construed as bearing on the merits of the action, be considered precedent in this or any other matter, or be considered in the adjudication of any dispositive motions.

Dated: April 15, 2022

/s/ David A. Boyd

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Susanne R. Young*

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USTelecom – The Broadband Association*